Court of Appeal
Fourth Appellate District
Division Two
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By: B. Frey

IN THE CALIFORNIA COURT OF APPEAL

FOURTH APPELLATE DISTRICT

In RE: the matter of:

- Robert "Tafoya", No. E084312

On Habeas Corpus

< 11/10/24 | File 2 of 4 >

CiteChecked()

PETITIONERS REQUEST FOR JUDICIAL NOTICE

IN SUPPORT OF PETITION

11/10/2024

Filed By:

Robert Michael Vanleeuwen

P.O. Box 1050 (A2/TAFOYA/BS8619)

Soledad, CA - 93960

PETITIONERS REQUEST FOR JUDICIAL NOTICE

IN SUPPORT OF PETITION

< To the Honorable Justices of this Court >

Petitioner requests the following judicial notices be made by this court:

1. Of this courts prior opinion in RELATED case 'E075791' and specifically of point-pages 7-8 (LEXIS), noting that the court reviewed the information of RIF2000128 in that case and clearly indicated the notice given for trial as one involving "Proofs of Service" (Attachment 1 [The opn.];2022 Cal App Unpub LEXIS 2739 @ *7 / *8(2022)).

2. Of Superior Court of California, County of Riverside, Civil case # MCC2001134 (Vanleeuwen,On Behalf of Marjorie,a minor v. Hector Santana(2020)[seeking restr. after child rep. HS asking "wierd questions" about inappropriate things, and to "call the police" if father Vanleeuwen appears and plant ideas that dads crazy and going to hurt you and mom, et cetera]), and of the minute order dated 8/27/2020, noting, specifically, that the prosecutor A. Barajas appears on the record.

3. Of the service on 12/9/2019 and of the declaration thereof (Attachment E), citing Hector Santana as Mothers personal ride/ chaperone, and his attempted interference, in Superior Court of California, County of Riverside, Family case # FLHE1903610.

4. Of the nationally recognized fact that parental alienation is child-abuse (Attachment B).

5. That both names 'Tafoya' & 'Vanleeuwen' were provided to the family court at filing (Ref FLHE1903610)(Attachment C).

6. That petitioner underwent a nueological risk assessment, which indicated no psychological issues or criminal intent - thes"most robust PVT's". high cognition / function / iq's (Attachment D).

7. Of the requested judicial notices in the initial petition (HCP @ A3), excluding number 44. The court to construe that as a point qualifying declaratory relief. All requests here incorporated as petitioners limited supplies would limit re-typing.

8. Of thiscourts case under number 'E079345', specifically of an attachment therein labled 'A4' and 'A5', for correlation with the record on appeal (ROA) - and attachment therein 'A' and of the stamped date thereon, for correlation with the ROA. Differences to support veracity of the record, manipulation of transcripts, et cetera.

9. Cumulative consideration of facts, manner of prosecution, and involvement of officers / prosecutor in outside matters is enough to aquire the presumption of vindictiveness in RIF2000128/E079488.

10. To the "inherently improbable" standard, for application to mothers testimony (People v Ennis,190 Cal App 4th 721,728(2010)).

SUPPORTING MEMORANDUM

< On Request(s) for Judicial Notice >

The state evidence code allows the courts to take judicial notice of appropriate matters (Cal Ev. § 450,etseq). Those which require the courts notice include statutory law (Cal Ev. § 451). Notice is also permitted on a number of other material aspects of law or relevance (Cal Ev. § 452), though requirement for such dependent on service to opposing parties (Cal Ev. § 453).

While multiple notices are here requested, they do meet the definitions provided under the Law Revision Commission (LRC) comment under section § 450 (Cal Ev. § 450), which indicates that "courts may consider whatever materials are appropriate in [the] construing [of] statutes, determining constitutional issues, and formulating rules of law. That a court may consider legislative history, discussions by learned writers in treatises and law reviews, materials that contain controversial economic and social facts or findings or that indicate contemporary opinion, and similiar materials is inherent in the requirement that [the court take] judicial notice of the law. In many cases the meaning and validity of statutes, the precise nature of a common law rule, or the correct interpretation of a constitutional provision can be determined only with the help of such extrinsic aids (cf,Sterling, 36 Cal App 558;564(1927)[hlding stat. authority to notice public private acts of legislature held to authorize examination of legislative history of certain acts])" (Cal Ev. § 450.

Consequently, this court must take judicial notice of these matters at appellants request, provided respondent has notice of the request and an opportunity to respond.

THEREFORE: Appellant respectfully requests this court to take judicial notice of the materials attached hereto as 'Attachments A-E' as is requested, along with those laws, materials, items or facts requested in movement.

|| DATED 11/10/2024

Robert Michael Vanleeuwen

Attachment

Attachment A

Warning
As of: June 6, 2023 10:16 PM Z

Vanleeuwen v. E.B.R.

Court of Appeal of California, Fourth Appellate District, Division Two

May 4, 2022, Opinion Filed

E075791

Reporter
2022 Cal. App. Unpub. LEXIS 2739 *; 2022 WL 1401778

ROBERT MICHAEL VANLEEUWEN, Appellant, v. E.B.R., Respondent.

Notice: NOT TO BE PUBLISHED IN OFFICIAL REPORTS. CALIFORNIA RULES OF COURT, RULE 8.1115(a), PROHIBITS COURTS AND PARTIES FROM CITING OR RELYING ON OPINIONS NOT CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS SPECIFIED BY RULE 8.1115(b). THIS OPINION HAS NOT BEEN CERTIFIED FOR PUBLICATION OR ORDERED PUBLISHED FOR THE PURPOSES OF RULE 8.1115.

Prior History: APPEAL from the Superior Court of Riverside County, No. FLHE1903610, James T. Warren, Judge. (Retired judge of the Riverside Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const. [*1]).

Disposition: Reversed with directions.

Core Terms

family court, restraining order, parental relationship, district attorney's office, proof of service, visitation order, criminal court, biological, testing, instant case, visitation, Counts, notice, talk, biological father, joint custody, declaration, contends, custody

Counsel: Robert Michael Vanleeuwen (Tafoya), pro per, for Appellant.

No appearance for Respondent.

Judges: MILLER, J.; McKINSTER, Acting P. J., FIELDS, J. concurred.

Opinion by: MILLER, J.

Opinion

In June 2019, appellant Robert Michael Vanleeuwen (Vanleeuwen)[1] filed a petition to establish a parental relationship with M.R., who is the biological daughter of respondent E.B.R. (Mother). In August 2019, the family court granted Vanleeuwen a three-year restraining order against Mother. In August 2020, the family court dismissed the petition and set aside the restraining order. Vanleeuwen contends the family

[1] Robert Michael Vanleeuwen is appellant's alias. Appellant's legal name is Robert Michael Tafoya, Jr.

court violated his constitutional rights by (1) not permitting him to speak during the August 2020 hearing; and (2) setting aside the restraining order without notice. Further, Vanleeuwen asserts his biological relationship with M.R. was "not sufficiently disproved." We reverse with directions.

FACTUAL AND PROCEDURAL HISTORY

M.R. was born in May 2007. Mother is M.R.'s biological mother. According to Vanleeuwen, he and Mother [*2] met toward the end of their time in high school, and they had a romantic relationship that lasted from 2008 to May 2016. Also, according to Vanleeuwen, during the relationship he lived with Mother and M.R. Vanleeuwen asserted he "raised [M.R. and has] always held [her] out as [his] own," and M.R. called him dad. Mother claimed to not know Vanleeuwen. A person who was not identified in the record claimed that Mother and Vanleeuwen "went on exactly three dates."[2]

In June 2016, Mother obtained a restraining order against Vanleeuwen. In June 2017, in criminal court, Vanleeuwen pled to three misdemeanor counts of violating the restraining order. As part of the plea, Vanleeuwen agreed "to leave the [C]ity of [R]iverside and move back with family in the state of Colorado." Vanleeuwen was in Colorado from August 2017 to March 2018. In March 2018, while in California, Vanleeuwen was arrested for vandalism and for stalking Mother. Vanleeuwen "again pled to a deal in July of 2019."

On June 13, 2019, Vanleeuwen filed a petition to establish a parental relationship with M.R. Vanleeuwen asserted "parentage has been established by [a] Voluntary Declaration of Paternity." [*3] Vanleeuwen requested joint custody of M.R. and visitation with M.R. The proof of service for the petition reflected that Mother was personally served by Jazmine Mendiola, who was not a registered process server.

On August 14, 2019, Vanleeuwen requested Mother's default be entered, and the request was granted. On September 10, 2019, without Mother being present, the family court ordered that Vanleeuwen "have visits every 2nd weekend from Friday after school to Sunday at 7pm. [Vanleeuwen] to pick-up and deliver [M.R.]."

On July 17, 2019, Vanleeuwen requested a domestic violence restraining order against Mother. In the request, Vanleeuwen asserted that Mother told him she would kill him and that she "'would prefer [him] dead.'" He also asserted that, in June 2016, Mother "[f]lung 3+ Gallons of Boiling-Hot water on [him] without cause, threat or provocation." The proof of service for the restraining order request was filed on August 12, 2019. The server was listed as Aaron Dyer, who was not a registered process server. On August 29, 2019, the family court held a hearing on the restraining order request. Mother was not present at the hearing. The court issued a three-year restraining order [*4] against Mother.

On September 12, 2019, Vanleeuwen filed a request for joint legal and physical custody of M.R. Vanleeuwen explained that, in his prior petition, he failed to check the appropriate boxes and thus was "not awarded a hearing," hence his renewed request for custody. Vanleeuwen asserted that he was making the "request as the biological & Declared father of [M.R.]"

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[2] We take judicial notice of the exhibits included in the writ petition filed by Vanleeuwen in Court of Appeal case No. E077508, *Vanleeuwen v. Superior Court*. (Evid. Code, § 452, subd. (d)(1).)

On September 13, 2019, Vanleeuwen went to the residence of Mother's ex-husband to pick-up M.R. per the September 10, 2019, visitation order. Mother's ex-husband told Vanleeuwen that Mother no longer lived at the residence. On October 5, 2019, Vanleeuwen contacted Mother about picking up M.R. for visitation on October 11. Mother communicated an "intent to further deprive [Vanleeuwen] of [his] right to see [M.R.]" On October 10, 2019, Vanleeuwen contacted the Riverside County District Attorney's Office "to ask what [he] should do" regarding enforcing the visitation order. On October 17, 2019, Vanleeuwen met with an investigator at the district attorney's office. During the meeting, Vanleeuwen asserted his "innocence in all past-allegations."

Mother denied having been served with Vanleeuwen's filings in the instant case. [*5] On the same day as Vanleeuwen's meeting—October 17, 2019—the Riverside County District Attorney's Office's Child Abduction Unit filed an ex parte application in the instant case, in the family court, seeking reconsideration of the family court's September 10, 2019, visitation order. (Fam. Code, § 3132.) The family court held a hearing on the application. It is unclear from the minute order who attended the hearing, but Vanleeuwen was given notice of the ex parte application via email. The court found "another party was found to be the father ([R.P.]) on case RIK015419 by judgment on 9/1/09." The court ordered Vanleeuwen to cooperate with the district attorney's office for DNA testing. The court suspended the September 10, 2019, visitation order until genetic testing was completed.

On December 5, 2019, Vanleeuwen filed an opposition to the district attorney's request for reconsideration of the visitation order. Vanleeuwen asserted that Mother was properly served with the June 13, 2019, petition to establish a parental relationship. Further, Vanleeuwen contended that, if the DNA results indicated he was not M.R.'s biological father, then he could still be her father due to his parental relationship with [*6] M.R.

On December 9, 2019, Vanleeuwen, Mother, and a member of the district attorney's office appeared in court for the DNA results, but the hearing was continued. The hearing concerning (1) Vanleeuwen's September 12, 2019, request for joint custody of M.R.; and (2) DNA results, was on calendar for January 22, 2020. However, neither Vanleeuwen, Mother, nor a member of the district attorney's office appeared, and the matter was taken off calendar. On February 14, 2020, Vanleeuwen filed another request for joint legal and physical custody of M.R. Vanleeuwen asserted the request was "a resubmit of the request for orders submitted September 2019."

The hearing on the February 14, 2020, request was calendared for April 2020, but then was continued due to the pandemic. The family court held the hearing on June 12, 2020, but only Vanleeuwen was present. The family court again suspended the visitation order. The court permitted "Vanleeuwen to file and serve evidentiary documents prior to the next hearing." The family court ordered the district attorney's office to appear at the next hearing.

On July 10, 2020, Vanleeuwen filed a declaration. In the declaration, Vanleeuwen asserted that Mother had [*7] been served at least three times in the case. Further, Vanleeuwen declared, "Over the course of this case, I've presented considerable evidence supporting long-term paternal-relations. It is visibly obvious a family unit once existed. [Exhibit 2 p. 29-30]. It is a fact that cannot be denied." Pages 29 and 30 of Exhibit 2 to the declaration consisted of photographs of people who we assume are Vanleeuwen, Mother, and M.R. Attached to the declaration was a proof of personal service indicating that, on

December 9, 2019, Tony Thomas, who is not a registered process servicer, personally served Mother with various documents from this case.

Meanwhile, the Riverside County District Attorney filed charges against Vanleeuwen. Vanleeuwen was arrested on January 10, 2020, and arraigned on January 14, 2020. An information in the criminal case was filed on October 22, 2020. In Count 1, Vanleeuwen was accused of attempted kidnapping of M.R. (Pen. Code, §§ 664, 207, subd. (a)), which occurred between June 13, 2019, and August 12, 2020. In Count 2, Vanleeuwen was charged with stalking and threatening Mother (Pen. Code, § 646.9), from June 13, 2019, to August 12, 2020, "when a temporary restraining order and an injunction prohibiting said behavior against [*8] [Mother] was in effect."

In Counts 3, 5, 7, 9, 11, 13, 15, and 17, Vanleeuwen was charged with filing false and forged proofs of service in Riverside County Superior Court case No. FLHE1903610 (Pen. Code, § 115), which is the family court number of the instant case. The following are the relevant dates for the alleged false filings: Counts 3, 5, and 7: June 13, 2019; Count 9: August 14, 2019; Count 11: August 29, 2019; Count 13: September 12, 2019; Count 15: October 18, 2019; Count 17: December 5, 2019.

In Counts 4, 6, 8, 10, 12, 14, and 16, Vanleeuwen was charged with perjury (Pen. Code, § 118a). Vanleeuwen allegedly perjured himself in the proof of service declarations filed in Riverside County Superior Court case No. FLHE1903610, i.e., the instant case. The following are the relevant dates for the alleged perjury: Counts 4, 6, and 8: June 13, 2019; Count 10: August 14, 2019; Count 12: September 12, 2019; Count 14: October 18, 2019; and Count 16: December 5, 2019. It was further alleged that Vanleeuwen suffered a prior strike conviction in July 2019 for the offense of making threats to commit a crime that will result in great bodily injury (Pen. Code, § 422, subd. (a)). (Pen. Code, §§ 667, subd. (c), 1170.12, subd. (c)(1).)

In the criminal court, Vanleeuwen moved to set aside the October 22, [*9] 2020, information. (Pen. Code, § 995.) The "motion [was] made on the grounds that [Vanleeuwen] was granted joint custody and visitation of [M.R.] through the Family Law Court in Riverside County on 09/10/2019; solicited help from the Riverside District Attorney's Office to enforce the visitation; [and] is not in violation of PC 664/207 [(attempted kidnapping)]."

On March 25, 2021, the criminal court, with the Honorable John D. Molloy presiding, held a hearing on the motion. The criminal court said it had read the preliminary hearing transcript in the case. The criminal court explained, "The unrefuted evidence at the preliminary hearing was that there was no rational basis for [Vanleeuwen] to believe he was the father, given that there was never sexual intercourse. The unrefuted evidence by the witnesses . . . to whom statements were attributed, were that he went on exactly three dates with [Mother]. That being the case, was there a direct but ineffectual act towards the 207? Yes. The direct but ineffectual act was going to the family law court and getting an order by the family law court that would empower the defendant to seek the aid of law enforcement to forcibly remove the child for whatever period [*10] from her mother. The overwhelming strength of the evidence at the preliminary hearing was that an attempt 207 did occur, even before he went to speak to the DA. That is a direct act towards the accomplishment of the taking of the child."

In regard to the forgery counts, the criminal court noted that Jazmine Mendiola, who allegedly served the June 13, 2019, petition to establish a parental relationship, had testified at the preliminary hearing. Mendiola testified that it was not her handwriting on the proof of service; that it appeared to be

Vanleeuwen's handwriting; that she tried to serve Mother but was unsuccessful; and she told Vanleeuwen that she was unsuccessful. The criminal court explained, "I cannot reverse when the magistrate['s] holding [order is based] on an issue of credibility because you want me to look at everything and believe that the magistrate should not have believed [Mendiola]." The criminal court denied the motion (Pen. Code, § 995).

Returning to the instant family law case, on August 12, 2020, the family court held a hearing on Vanleeuwen's February 14, 2020, request for joint legal custody. At the hearing, Vanleeuwen was self-represented, and he was in custody. Mother was not [*11] present either personally nor through counsel. At the start of the hearing, the following exchange occurred:

"THE COURT: So, Mr. Vanleeuwen, I'm going to limit your conversation in this case. It's my understanding that you are facing some extremely serious felony charges—charges in RIF200018, which could lead to [a] substantial number of years in incarceration if you're convicted. [¶] So because of that, I don't want you talking very much about this case, sir, because anything you say here could be used against you in those criminal proceedings.[3] And part of those charges include charges of filing false documents with this court. So I think it's extremely important, sir, that you limit your conversation here this morning. [¶] Do you understand me, sir?

"MR. VANLEEUWEN: Your Honor, I understand completely my situation, and I also understand the lack of evidence against me, so I'm more than willing to answer any questions that you have.

"THE COURT: No. Mr.—

"MR. VANLEEUWEN: I have not committed any crimes.

"THE COURT: Mr. Vanleeuwen, you're not listening to me. I want you to listen to me. [¶] I don't want you to be on the record here. We have a D.A. investigator who will hear everything that [*12] you say, sir, and I'm sure will take it all down. And if you say things that incriminate you, they're going to be [used] in that case against you. [¶] So, please, sir, you don't have an attorney. You're entitled to speak with an attorney before you proceed here this morning, and you don't have an attorney. I don't want to be in a position where your words will come back to be utilized against you in the criminal proceedings."

The family court said, "[T]he main issue I'm concerned about at this particular juncture is the results of the DNA testing." The District Attorney's investigator said the test results reflected that Vanleeuwen was not M.R.'s biological father. Vanleeuwen said he had not received a copy of the DNA results, at which point the family court began discussing Vanleeuwen's in-custody status. The following exchange occurred:

THE COURT: "I can tell you that you're charged with kidnapping, among other things, and that carries a very substantial period of time in State prison. And that's why I don't want you to talk to me about the case. [¶] So at this time—

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[3] On appeal, Vanleeuwen asserts the August 12, 2020, minute order is incorrect because it reflects that the family court advised Vanleeuwen of his Fifth Amendment rights, but, according to Vanleeuwen, no such advisement was given. The minute order appears to be accurate as the family court's comment, "[A]nything you say here could be used against you in those criminal proceedings," was a Fifth Amendment advisement.

"MR. VANLEEUWEN: I understand, Your Honor, but without ever approaching my daughter without permission, there's no—no—not [*13] even a claim of kidnapping.

"THE COURT: Mr. [Vanleeuwen], what did I tell you? [¶] Mr.—

"MR. VANLEEUWEN: Sorry.

"THE COURT: Mr. Vanleeuwen, please don't talk about the case. I'm sure [the district attorney's investigator] is sitting there taking notes and you're not listening to me. I'm giving you a wise advice. [¶] So at this time, I am going to find that Mr. Vanleeuwen is not the father of [M.R.] I am going to—

"MR. VANLEEUWEN: Objection. Hearsay and foundation, Your Honor. [¶] You can't—[¶] Presumed fatherhood has been met. Rebuttal has been met. Your Honor, please. The law states very clearly that fatherhood is not defined by blood. [¶] I raised the child. I love the child. I sacrificed for this child. I'm still facing these charges and not leaving my loyalty to this child. This is not right, Your Honor.

"THE COURT: Thank you. [¶] At this time, the petition—the petition to establish parental relationship is ordered dismissed."

The family court also set aside the temporary restraining order and three-year restraining order that had been issued against Mother as well as "all orders previously made at the domestic violence restraining order [hearing]." The family court explained, "I have [*14] sufficient information before me to believe that [Mother] was not properly served and so that is my action at this time."

DISCUSSION

A. PETITION TO ESTABLISH A PARENTAL RELATIONSHIP

Vanleeuwen contends the family court erred by dismissing his June 13, 2019, petition to establish a parental relationship. Specifically, Vanleeuwen asserts that, during the August 12, 2020, hearing, because the family court prevented him from speaking, he was denied his rights to a fair hearing, to confront his adversary, and to present evidence. Vanleeuwen asserts that a court cannot "force one" into silence under the Fifth Amendment. He contends that he would not have asserted his Fifth Amendment privilege if he had been given the option. Further, if he had been permitted to speak freely, then he would have "call[ed] available witnesses, which included the process servers associated with the action at the time of [the] hearing."

"We independently review due process claims 'because "the ultimate determination of procedural fairness amounts to a question of law."'" (*Roth v. Jelly* (2020) 45 Cal.App.5th 655, 666.) "[T]he privilege against compelled self-incrimination has been viewed as 'fundamental.' [Citations.] But other rights have been so ranked as well. The right to compulsory [*15] process is a 'fundamental' right. [Citations.] Another 'fundamental' right is the right of confrontation. [Citations.] Yet another 'fundamental' right . . . is the right to testify." (*People v. Barnum* (2003) 29 Cal.4th 1210, 1222-1223, 131 Cal. Rptr. 2d 499, 64 P.3d 788 (*Barnum*).)

"[T]he privilege against compelled self-incrimination 'says no more than a person shall not be *compelled* to speak. It does not place upon the trial court the duty of informing a *pro se* defendant of his [or her]

rights and privileges.'" (*Barnum, supra*, 29 Cal.4th at p. 1225.) Nevertheless, if a trial court chooses to give a Fifth Amendment advisement, then it "must proceed carefully in providing an advisement." (*Id.* at p. 1226.) The court should be careful that "its words do not stray from neutrality toward favoring any one option over another." (*Ibid.*)

In the instant case, the family court went beyond informing Vanleeuwen of his Fifth Amendment privilege by essentially requiring that Vanleeuwen remain silent. As examples, the family court said, "I don't want you talking very much about this case"; "I think it's extremely important, sir, that you limit your conversation here this morning"; "I don't want you to be on the record here"; "And that's why I don't want you to talk to me about the case"; and "Mr. Vanleeuwen, please don't talk about the case." The family court appeared [*16] to have good intentions in seeking to protect Vanleeuwen from possible self-incrimination; however, the family court's words "stray[ed] from neutrality toward" mandating Vanleeuwen remain silent. (*Barnum, supra*, 29 Cal.4th at p. 1226.)

"A trial judge presiding over a case initiated by an incarcerated and self-represented plaintiff . . . faces a significant challenge in balancing his or her obligations to facilitate the ability of the self-represented litigant to be fairly heard, on the one hand, and to refrain from assuming the role of advocate, on the other." (*Holloway v. Quetel* (2015) 242 Cal.App.4th 1425, 1433-1434, 195 Cal. Rptr. 3d 920.) That balance was particularly difficult in this case given that Vanleeuwen's criminal case was based upon his filings in the instant family law case. However, as much as it might have behooved Vanleeuwen to remain silent for purposes of his criminal case, it was not the family court's role to order him to be silent. Accordingly, we conclude the family court erred by essentially mandating Vanleeuwen invoke his right to silence.

Nevertheless, there was arguably a valid reason for not permitting Vanleeuwen to speak about the merits of the matter. The family court believed "[Mother] was not properly served." If Mother were not served, then communicating with Vanleeuwen [*17] would have been an improper ex parte communication, in which case, stopping him from speaking was appropriate. (*Nguyen v. Superior Court* (2007) 150 Cal.App.4th 1006, 1013, fn. 2, 58 Cal. Rptr. 3d 802.) The problem, of course, is that a proper hearing regarding service was not conducted.

Sometimes, in court, "things simply go so far awry that the only fair resolution is a 'do-over.'" (*Gamet v. Blanchard* (2001) 91 Cal.App.4th 1276, 1285, 111 Cal. Rptr. 2d 439.) In the instant case, "[e]vents diverged so far from any reasonable person's idea of a fair day in court that a 'do-over' is surely warranted." (*Ibid.*) In particular, because Vanleeuwen was prevented from discussing any issues that related to the criminal matter, which included the proof of service in this case, and the allegedly false proof of service was the basis for dismissal of the petition to establish a parental relationship, we conclude another hearing must be held in which Vanleeuwen is given the opportunity to speak and present evidence, particularly regarding service. (*Lovato v. Santa Fe Internat. Corp.* (1984) 151 Cal.App.3d 549, 554-555, 198 Cal. Rptr. 838 ["'Where the unsuccessful party has been prevented from exhibiting fully his case . . . there has never been a real contest in the trial or hearing of the case, [which is a] reason[] . . . [to] open the case for a new and fair hearing'"].)

We will reverse the dismissal of the petition to establish a parental relationship. [*18] However, given the family court's concerns that Mother did not receive notice of the petition, we will direct the family court to

issue an order to show cause to Vanleeuwen as to why the proof of service filed on July 1, 2019, should not be stricken.

B. RESTRAINING ORDER

Vanleeuwen contends the family court erred by setting aside the August 29, 2019, restraining order without notice.

"""An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."""" (*Edward W. v. Lamkins* (2002) 99 Cal.App.4th 516, 529, 122 Cal. Rptr. 2d 1.)

The family court set aside the August 2019 restraining order at a hearing that was meant to be about Vanleeuwen's February 14, 2020, request for joint custody. We conclude the family court erred by setting aside the restraining order when no notice was given that the court would be considering such an action. Accordingly, we will reverse the setting aside of the restraining order. Because the family court is concerned about the alleged lack of service, we will direct the family court to issue an order to show cause [*19] directed to Vanleeuwen as to why the restraining order issued on August 29, 2019, should not be vacated due to a failure to serve Mother.

C. BIOLOGICAL FATHER

Vanleeuwen contends his biological relationship with M.R. was "not suffic[ie]ntly disproved."

The appellant "has the burden of showing reversible error by an adequate record." (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574, 224 Cal. Rptr. 664, 715 P.2d 624.) The district attorney's office filed an ex parte application seeking reconsideration of the family court's September 10, 2019, visitation order. (Fam. Code, § 3132.) At the hearing on the application, the family court suspended the September 10, 2019, visitation order "until DNA testing." At the August 12, 2020, hearing, which was supposed to be about Vanleeuwen's February 14, 2020, request for joint custody, the family court said, "[T]he main issue I'm concerned about at this particular juncture is the results of the DNA testing. Has the district attorney's office received those results?"

It is unclear from the record exactly how DNA testing became a focus of the case. We do not have a reporter's transcript of the hearing on the ex parte application from which to gain an understanding of how the issue of DNA testing arose. For example, it is unclear if the district attorney's [*20] office argued that Vanleeuwen should only be allowed visitation if he is M.R.'s biological father; if Vanleeuwen argued that he was M.R.'s biological father; or if some other argument was made.

We need to understand in what manner the DNA issue arose because if the issue was raised by Vanleeuwen as part of his petition to establish a parental relationship, then Vanleeuwen bore the burden of proving a parental relationship. (*Huntingdon v. Crowley* (1966) 64 Cal.2d 647, 651, 51 Cal. Rptr. 254, 414 P.2d 382.) In such a scenario, the issue on appeal would not be whether the biological relationship was sufficiently disproved; instead, the issue would be whether the family court erred by finding that Vanleeuwen failed to sufficiently prove the relationship. (*Dreyer's Grand Ice Cream, Inc. v. County of Kern* (2013) 218 Cal.App.4th 828, 838, 159 Cal. Rptr. 3d 832 [standard when "appeal turns on a failure of proof at trial" is whether the petitioner's evidence is """uncontradicted and unimpeached"""].) In sum, the

record is deficient because it fails to establish the procedural context to allow us to understand how the DNA issue arose.

If we were to overlook the lack of procedural context, the record is also inadequate because it appears to be missing some of the evidence pertinent to the issue. For example, the record does not include a copy of the DNA results that were discussed [*21] in court on August 12, 2020, despite the record indicating that the results were filed in the family court. Given these issues with the record, we do not examine whether Vanleeuwen's biological fatherhood was "suffic[ie]ntly disproved." In sum, Vanleeuwen's appeal, as it pertains to the biological fatherhood finding, fails due to Vanleeuwen's failure to provide an adequate record.

D. REMAINING ISSUES

On appeal, Vanleeuwen asserts other errors, such as (1) it was error to permit the district attorney's office to appear in the case; (2) the family court's actions were part of a conspiracy; and (3) the family court should have opened an investigation into M.R.'s welfare.

We begin with the first and second of those three issues. As discussed *ante*, we will reverse the family court's dismissal of the petition to establish a parental relationship and setting aside of the restraining order. If we were to discuss the first and second issues and conclude there were error, there is nothing more we could reverse. Therefore, there is no further relief we can provide Vanleeuwen by addressing those two issues. Accordingly, we decline to address the merits of those two issues. (*Steiner v. Superior Court* (2013) 220 Cal.App.4th 1479, 1485, 164 Cal. Rptr. 3d 155.)

As to the third issue, [*22] Vanleeuwen fails to provide a record citation indicating when, in the family court, he requested that the court open an investigation into M.R.'s welfare. (Cal. Rules of Court, rule 8.204(a)(1)(C).) Because it appears the issue was not raised in the family court, we conclude it has been forfeited. (*Kern County Dept. of Child Support Services v. Camacho* (2012) 209 Cal.App.4th 1028, 1038.)

DISPOSITION

The August 12, 2020, order dismissing the June 13, 2019, petition to establish a parental relationship is reversed. The family court is directed to issue an order to show cause to Vanleeuwen as to why the proof of service filed on July 1, 2019, should not be stricken.

The August 12, 2020, order setting aside the August 29, 2019, restraining order is reversed. The family court is directed to issue an order to show cause directed to Vanleeuwen as to why the restraining order issued on August 29, 2019, should not be vacated due to the failure to serve Mother and the failure to file a proper proof of service.

Mother has not appeared in this appeal; Vanleeuwen shall bear his own costs on appeal. (Cal. Rules of Court, rule 8.278(a)(5); *County of San Diego Dept. of Child Support Services v. C.P.* (2019) 34 Cal.App.5th 1, 13, 245 Cal. Rptr. 3d 748.)

MILLER, J.

We concur:

McKINSTER, Acting P. J.

FIELDS, J.

End of Document

Attachment

Attachment B

Parental Alienation Can Be Emotional Child Abuse

Ken Lewis
Director, Child Custody Evaluation Services of Philadelphia, Inc.

What is and is not parental alienation? Here are some of its descriptors, possible effects on children, and tips for custody evaluators and family court judges.

When marital discord evolves into hatred, many couples are quick to see divorce as their best option. Divorce may be an easy way out for the couple, but it often wreaks havoc on the children. When parents seek help from state courts, family court judges can appoint mental health professionals as custody evaluators to guide them in determining the future best interests of the children. While these professionals are historically skilled at identifying physical child abuse, they are beginning to identify a more insidious form of emotional child abuse called parental alienation. When this form of abuse is correctly and timely identified, custody evaluators can recommend specific strategies for success.

Parental Alienation vs. Parental Alienation Syndrome

Parental alienation is frequently confused with the parental alienation syndrome (PAS). Dr. Richard Gardner, an American psychiatrist who died in 2003, coined the phrase "parental alienation syndrome" in 1985 and wrote extensively about it. He defined the syndrome as:

> *a childhood disorder that arises almost exclusively in the context of child-custody disputes. It is a disorder in which children, programmed by the allegedly "loved" parent, embark upon a campaign of denigration of the allegedly "hated" parent. The children exhibit little if any ambivalence over their hatred, which often spreads to the extended family of the allegedly despised parent ("Recommendations for Dealing with Parents Who Induce a Parental Alienation Syndrome in Their Children," Journal of Divorce and Remarriage 28, nos. 3-4 [1998]).*

Gardner used the term "syndrome" because of his medical background. A syndrome is a cluster of related symptoms. Syndromes are generally discouraged as evidence in court because they refer to symptoms from a collection of individuals, while the court is only concerned with those individuals who have standing for the matter before the court.

For Gardner, the syndrome describes the child's campaign of denigration against one of their parents—a campaign that is encouraged by the other parent. It should be noted that there is no PAS when abuse or neglect is present. PAS can only be applicable when the "hated" parent has not abused or neglected the child or exhibited any behavior that would justify the child's animosity toward that parent.

While PAS identifies a problem in the child ("a childhood disorder"), parental alienation identifies a collection of one parent's behaviors aimed at causing the child to become alienated from the other parent. Children can become alienated from a parent for a variety of reasons, such as sexual abuse, physical abuse, emotional abuse, parental abandonment, adult alcoholism, narcissism, and other reasons. Sometimes, a child may become alienated from the parent who initiated the divorce, blaming that parent for breaking up the family. But while these reasons may explain why the child is alienated from the parent, none would qualify as descriptors for parental alienation. Parental alienation is a strategy whereby one parent intentionally displays to the child unjustified negativity aimed at the other parent. The purpose of this strategy is to damage the child's relationship with the other parent and to turn the child's emotions against that other parent. This strategy has been called a "head-trip game" (see Ken Lewis, *Child Custody Evaluations by Social Workers: Understanding the Five Stages of Custody* [Washington, DC: NASW Press, 2009], p. 44).

Parental alienation is a particular family dynamic that can emerge during divorce in which the child becomes excessively hostile and rejecting of one parent. This hostility can involve transgenerational dynamics about which evaluators and family court judges should be aware.

The remainder of this article presents:

- a list of the various descriptors that identify parental alienation;
- the possible effects on the children;
- parental alienation as a form of emotional child abuse;
- the ways that courts have responded to parental alienation; and
- 10 tips for family court judges.

Parental Alienation Syndrome can only be applicable when the "hated" parent has not abused or neglected the child or exhibited any behavior that would justify the child's animosity toward that parent.

Descriptors of Parental Alienation

When investigating whether parental alienation is present, a custody evaluator looks for a variety of descriptors concerning the targeted parent and the alienating parent. Ten such descriptors are:

1. The child expresses a relentless hatred for the targeted parent.
2. The child's language parrots the language of the alienating parent.
3. The child vehemently rejects visiting the targeted parent.
4. Many of the child's beliefs are enmeshed with the alienating parent.
5. Many of the child's beliefs are delusional and frequently irrational.
6. The child's reasons are not from direct experiences but from what has been told to him or her by others.
7. The child has no ambivalence in his or her feelings; they are all hatred with no ability to see the good.
8. The child has no capacity to feel guilty about his or her behavior toward the targeted parent.
9. The child and the alienating parent are in lockstep to denigrate the targeted parent.
10. The child can appear like a normal healthy child. But when asked about the targeted parent, it triggers his or her hatred.

Parental alienation is a strategy whereby one parent intentionally displays to the child unjustified negativity aimed at the other parent. The purpose of this strategy is to damage the child's relationship with the other parent and to turn the child's emotions against that other parent.

Effects of Parental Alienation on the Children

Parental alienation is a form of emotional child abuse. The potential impact of this abuse on a child's life can be devastating. Some of the frequently listed effects of parental alienation have been reported in the child welfare literature, including:

- an impaired ability to establish and maintain future relationships;
- a lowering of the child's self-image;
- a loss of self-respect;
- the evolution of guilt, anxiety, and depression over their role in destroying their relationship with a previously loved parent;
- lack of impulse control (aggression can turn into delinquent behavior); and
- educational problems, disruptions in school.

Family therapists who have treated alienated children have classified the problem as a "parent-child relational problem," as outlined by the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (4th ed.).

Parental Alienation and Emotional Child Abuse in State Statutes

Children who suffer from emotional abuse often elude the legal assistance of the child protection system. For example, this emotional abuse is usually invisible to teachers and social workers and even the family court judge. The alienated child will talk with the judge in language and syntax similar if not identical to the way the alienating parent talks. While the targeted parent often appears anxious, depressed, or angry, the alienating parent appears relaxed, composed, and, therefore, credible.

The normative framework of the child protection system does not always include the emotional abuse of children. For the majority of states, the physical health and safety of children are focal points in determining whether abuse or neglect has occurred. Nonetheless, 48 states include emotional abuse or maltreatment in their abuse definitions. (Emotional maltreatment is not included in statutory definitions in Georgia and Washington, but it can be found elsewhere in their statutes.)

Samples of Statutory Definitions in the United States and Canada

California

"A child who is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian."
W.I.C. §300 subd. (c) 2000 [Welfare and Institutions Code]

Michigan

"'Serious mental harm' means an injury to a child's mental condition ... that is not necessarily permanent but results in visibly demonstrable manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality." MCL 750.136b (1)(g)

Punishment for serious mental harm is prescribed: "A person is guilty of child abuse in the *first degree* if the person knowingly or intentionally causes serious physical or serious mental harm to a child. Child abuse in the first degree is a felony punishable by imprisonment for not more than 15 years." MCL 750.136b (2).

Minnesota

"Persons guilty of neglect or endangerment (include) a parent ... who endangers the child's ... health by: ... permitting a child to be placed in a situation likely to substantially harm the child's ... emotional health."
Minn. Stat. § 609 378, Subdivision 1 (a)(2)(b)(1) (2005).

Nevada

"'Substantial mental harm' means an injury to the ... emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his normal range of performance or behavior."
Nev. Rev. Stat. Ann. § 200.508, 4 (e) (2006).

North Dakota

"A parent ... who willfully inflicts ... upon the child mental injury ... is guilty of a class C felony except if the victim ... is under the age of six years in which case the offense is a class B felony."
N.D Cent. Code, § 14-09-22.1 (2013).

Wyoming

"'Mental injury'" means an injury to the ... emotional stability of a child as evidenced by an observable ... impairment in his ability to function within a normal range of performance."
Wyo. Stat. § 14-3-202 (A) (2006).

Manitoba

"The best interests of the child shall be the paramount consideration of the ... court in all proceedings .... [R]elevant matters shall [include] ... the child's opportunity to have a parent-child relationship as a wanted and needed member within a family structure ... [and] the ... emotional ... needs of the child and the appropriate care .... to meet such needs."
The Child and Family Services Act, 1985, C.C.S.M. c. C80 2(1)(a) & (b) [Continuing Consolidation of the Statutes of Manitoba].

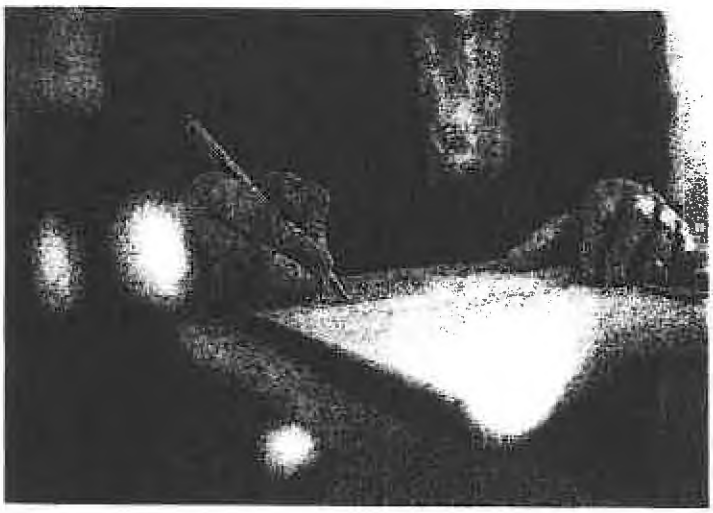
Ontario

"No person having charge of a child shall permit the child to suffer from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development."
Ontario Child and Family Services Act, R.S.O. 1990, Chapter C.11 sec. 79 (2)(b)(ii).

Whether "mental harm," "mental injury," "emotional instability," "emotional endangerment," "emotional damage," or some other phrase, it is clear that emotional child abuse is a statutory crime. When one parent intentionally encourages the child to turn against the other parent, he or she is employing parental alienation as a strategy.

When this strategy is used by one parent in hopes of alienating the child against the other parent, it is tantamount to teaching the child how to hate. Canadian Judge John H. Gomery put it eloquently this way: "Hatred is not an emotion that comes naturally to a child. It has to be taught.... Defendant has deliberately poisoned the minds of his children against the mother that they formerly loved and needed" (*Stuart-Mills, P. v. Cher, A.J.*, Sup. Ct. Quebec, District of Montreal [1991]).

Parental alienation can be administered in mild or extreme amounts, or anything in between. In its extreme form, it can be defined as criminal behavior, consistent with the various state definitions presented above.



When the strategy [of parental alienation] is successful, the emotional consequences to the child can be damaging and may rise to the level of criminal behavior.

How the Courts Have Responded to Parental Alienation

Courts in different states have responded to parental alienation in different ways. Basically, there have been four categories of these responses.

Criminal Response. Some states make interference with custody a criminal offense. For example, New Jersey makes interference a crime of the third degree that may lead to imprisonment for three to five years or a fine of $7,500 or both. All states make emotional child abuse or maltreatment of a child a criminal offense. Some extreme cases of parental alienation may warrant this response.

Civil Remedies. All courts can impose civil sanctions by way of contempt-of-court orders. When a parent's strategy of parental alienation endangers the child's relationship with the other parent, some of the possible civil remedies may be economic sanctions against the alienating parent or short incarceration time for contempt of court.

Custody Responses. All courts that have initial custody jurisdiction have the authority to modify previous custody orders. Responses to parental alienation have been to deny initial custody (order a parental alienation evaluation, deny custody to the alienating parent); to modify visitation (extend visits between the child and the alienated parent, establish supervised visitations); and to modify previous custody (temporary modification of custody for specific time periods, permanent modification of custody, reverse custody).

Therapeutic Responses. Family law's innovations and reforms have become the showcase for therapeutic jurisprudence. Parental alienation cases provide opportunity to demonstrate how the strategy of replacing the "punishment" role of the courts with the therapeutic "fix-the-problem" approach can advantage children. Evaluation and therapy are earmarks of the therapeutic response to parental alienation.

The court could order an evaluation of the child to determine whether parental alienation is operative in a case and, if so, at what level is it operative.

- The court could order individual therapy for the alienator.
- The court could order family therapy in mild cases.
- Parental alienation therapy by a specialist could be ordered by the court in extreme cases.

Ten Tips for Custody Evaluators and Family Court Judges

Tip #1	*There is no parental alienation when there is reasonable justification for the child to express negativity against one parent.*
Tip #2	*Parental alienation can be a strategy used by the custodial parent, the noncustodial parent, or both parents.*
Tip #3	*Parental alienation is nearly impossible when the child is an infant.*
Tip #4	*The beginning stage of parental alienation is difficult to begin in the child's late teen years.*
Tip #5	*Parental alienation can be operative on one sibling, while not operative on the other siblings.*
Tip #6	*If parental alienation is suspected or alleged, it should be assessed by a custody evaluator experienced in the matter.*
Tip #7	*Extreme parental alienation should be considered emotional child abuse and referred criminally.*
Tip #8	*Often parental alienation can be reduced or eradicated by ordering more time between the child and the targeted parent. When a child spends frequent positive time (primary experience) with one parent, it is less likely that the other parent's parental alienation strategy will be successful.*
Tip #9	*Parental alienation case law is growing; family court judges should become familiar with cases in their jurisdictions.*
Tip #10	*Identify mental health professionals in family court jurisdictions who have expertise in parental alienation.*

Parental Alienation Bench Card

Parental Alienation Descriptors

- ☐ 1. The child expresses a relentless hatred for the targeted parent.
- ☐ 2. The child's language parrots the language of the alienating parent.
- ☐ 3. The child vehemently rejects visiting the targeted parent.
- ☐ 4. Many of the child's beliefs are enmeshed with the alienating parent.
- ☐ 5. Many of the child's beliefs are delusional and frequently irrational.
- ☐ 6. The child's reasons derive from what has been told to the child by others.
- ☐ 7. The child has no ambivalence about his or her negative feelings; they are all hatred.
- ☐ 8. The child feels no guilt about his or her negativity toward the targeted parent.
- ☐ 9. The child and the alienating parent are in lockstep to denigrate the targeted parent.
- ☐ 10. The child can appear like a normal healthy child, but, when asked about the targeted parent, it triggers his or her hatred.

Effects of Parental Alienation on the Alienated Child

- ☐ 1. An impaired ability to establish and maintain future relationships.
- ☐ 2. A low self-image.
- ☐ 3. A loss of self-respect.
- ☐ 4. Over time: guilt and depression for destroying the relationship with a previously loved parent.
- ☐ 5. Lack of impulse control. Aggression can turn into delinquent behavior.

Court's Possible Responses During Child Custody Litigation

- ☐ 1. Enter order to determine whether parental alienation is operative and, if so, at what level.
- ☐ 2. Order individual therapy for the alienator.
- ☐ 3. Order family therapy in mild cases.
- ☐ 4. In more severe cases, order parental alienation therapy by a specialist.

Caution: If possible, parental alienation should be addressed in its early stages. It is significantly more difficult to treat if it progresses over time and grows more intense.

Attachment

Attachment C

FLHE1903610
Filed Date: **06/13/2019**
Case Status: **Active**

VANLEEUWEN vs. RAMIREZ
Family Law Establish Parental Relationship
Hemet - Department H2

Case Summary

COMPLAINTS/PETITIONS

Filings	Represented By	Status	Dispositions
VANLEEUWEN vs. RAMIREZ Family Law Establish Parental Relationship			
Petition to Establish Parental Relationship filed by ROBERT MICHAEL VANLEEUWEN Petitioner: ROBERT MICHAEL VANLEEUWEN **Also Known As:** ROBERT MICHAEL TAFOYA Respondent: ELISSETH BARRERA RAMIREZ Child: MARJORIE RAMIREZ VANLEEUWEN	In Pro Per	Active Filed: 06/13/2019 Defaulted as of 08/14/2019	
Domestic Violence With Child(ren) filed by ROBERT MICHAEL VANLEEUWEN on 07/17/2019 Protected Person: ROBERT MICHAEL VANLEEUWEN **Also Known As:** ROBERT MICHAEL TAFOYA Restrained Person: ELISSETH BARRERA RAMIREZ Child: MARJORIE RAMIREZ VANLEEUWEN		Filed: 07/17/2019 Served as of 08/09/2019	Judgment/Order 08/29/2019

HEARINGS

Date Time	Type	Judicial Officer	Location/Courtroom	Disposition
08/09/2019 08:30 AM	Hearing re: Permanent Restraining Order on Request Filed on Domestic Violence With Child(ren) filed by ROBERT MICHAEL VANLEEUWEN on 07/17/2019	James T. Warren	Department H2	Completed
08/29/2019 08:30 AM	Hearing re: Permanent Restraining Order on Request Filed on Domestic Violence With Child(ren) filed by ROBERT MICHAEL VANLEEUWEN on 07/17/2019	James T. Warren	Department H2	Completed
09/10/2019 08:30 AM	Hearing re: Request for Order re: Visitation filed on 06/13/2019	James T. Warren	Department H2	Completed

Attachment

Attachment D

Neuropsychological and Risk Assessment Report [redacted]

VANLEEUWEN ROBERT MICHAEL

Case Number: RIF2000128

Date: 06/06/2022

Kimberly Smith, Psy.D.
Forensic Neuropsychologist
10250 Constellation Boulevard Suite 100
Los Angeles, CA 90067
(323) 708-1904
(424) 274-2166

Pursuant to a Court order signed by the Honorable Mark Singerton, dated 04/08//2022, I was appointed pursuant to Evidence Code Sections 730 and 952 to conduct a neuropsychological assessment.

Informed Consent

This report contains sensitive information subject to misinterpretation by persons without specialized training in psychological assessment. Written consent from Mr. Vanleeuwen or his conservator is required for the release of any information enclosed. Nonconsensual disclosure is limited under Section 5328, California Welfare, and Institutions Code. Mr. Vanleeuwen was provided with an explanation of the purpose of testing and a description of the testing procedures, as well as the limits to confidentiality. He was informed of the examiner's role as a forensic neuropsychologist. Mr. Vanleeuwen was informed that it was his decision to proceed with testing and that participation could aid in providing himself and the Court a better understanding of his cognitive functioning. He was informed that the assessment report would become part of his legal record, and that his participation was voluntary. Mr. Vanleeuwen verbally expressed understanding of the above information and proceeded to participate in the evaluation.

Identifying Information (Defendant)

Last Name: Vanleeuwen	First Name: Robert
Case Number: RIF2000128	Assessment Number: 1100

Risk Assessment	Rating
Mr. Vanleeuwen's risk of violence	Low
Mr. Vanleeuwen's risk of dangerousness to others	Low
Mr. Vanleeuwen's risk of danger to others and clinical management of such risk	Low
Mr. Vanleeuwen's risk of recidivism	Low

Risk Assessment

In my professional opinion **Mr. Vanleeuwen is considered a low risk for dangerousness** and I do not believe he is imminently dangerous to others. I further opine that Mr. Vanleeuwen would not pose an unreasonable risk of danger to public safety. Mr. Vanleeuwen bears no indication of recidivist tendencies to commit crime or offenses that pose a risk of harm to the public. He is not presently psychotic, manic, experiencing depression or anxiety, and is able to manage his behavior. I do not believe he is imminently dangerous to commit a super strike.

Mr. Vanleeuwen was also assessed for dangerousness through three (3) objective measures, the Hare Psychopathy Checklist, Revised, 3rd Edition (Hare PCL-R), The Historical, Clinical, and Risk Management- 20, Version 3 (HCR 20), and Violence Risk Appraisal Guide (VRAG).

The PCL-R is considered the gold standard for the evaluation of psychopathology or sociopathy. Psychopathology was evaluated in terms of interpersonal, behavioral, and affective dysfunctioning and antisocial behavior. **Test results of the PCL-R indicated no evidence of psychopathology.** Mr. Vanleeuwen appears capable of learning from his mistakes.

He was also administered The Historical, Clinical, and Risk Management – 20 (HCR 20 Version 3). Structured professional judgement (SPJ) measures are a tradition of risk assessment tools that integrate empirically supported risk factors with clinical judgement to generate a final risk judgement for the potential of recidivism outcomes such as violence. **Mr. Vanleeuwen is rated a LOW risk for recidivism and violence.**

Mr. Vanleeuwen does not have a history of violence (H1). He does not have antisocial behavior (H2), or risk factors related to relationships (H3), employment (H4), substance use (H5), major mental disorder (H6), personality disorder (H7), traumatic experiences (H8), violent attitudes (H9), difficulties with treatment or supervision response (H10) or other considerations (OC-H). Moreover, Mr. Vanleeuwen does not have clinical risk factors related to violence such as insight (C1), violent ideation (C2), symptoms of major mental disorder (C3), instability (C4), treatment or supervision response (C5), or other considerations (OC-C).

There are no risk management risk factors related to violence such as professional services and plans needed (R1), living situation (R2), personal support (R3), treatment or supervision response (R4), stress or coping (R5), or other considerations (OC-R).

Mr. Vanleeuwen was also administered the Violence Risk Appraisal Guide-Revised (VRAG-R). The VRAG-R is an actuarial instrument to evaluate risk for violence in the community. **The results of the VRAG-R indicated Mr. Vanleeuwen presents with low risk of violence.**

In my professional opinion Mr. Vanleeuwen does not have the incentive, means, and inclination to flee.

As it pertains to family contentions, Mr. Vanleeuwen asserted he filed a petition to determine/recognize a paternal relationship. In my professional opinion, there is no reason to question his sincerity. He believed at the time of filing the family actions he was Marjorie's biological father and he is clearly able to convey, and continues to hold his belief in an appropriate and reasonable manner. Mr. Vanleeuwen's beliefs appear sincere. With regards to his past relationship with the mother and child, he is capable of recalling intimate memories and intimate knowledge which a stranger limited acquaintance would not know, signifying long-term relations.

CLINICAL SUMMARY

Mr. Vanleeuwen is a 32-year-old gentleman who has intact intellectual and neuropsychological functioning. Additionally, Mr. Vanleeuwen does not have a psychiatric history or ever been hospitalized for psychiatric purposes. He is able to comprehend, appropriately assess situations, think abstractly, and draw logical conclusions. It should also be noted, Mr. Vanleeuwen's risk assessment for violence in the

institutional setting and community are LOW. Moreover, Mr. Vanleeuwen reveals no tendency or intent to commit crime or offenses that pose a threat to public safety. Mr. Vanleeuwen was assessed using the Hare Psychopathy Checklist (Hare PCL-R), The Historical, Clinical and Risk Management – 20 (Version 3), and the Violence Risk Appraisal Guide-Revised (VRAG-R). On each risk assessment administered Mr. Vanleeuwen was placed at a LOW risk for violence. Mr. Vanleeuwen does not have a mental disorder nor does he abuse substances. Mr. Vanleeuwen exhibits traits well suited for roles in leadership, including his position as a father.

Clinical Referral
Mr. Vanleeuwen referred himself for neuropsychological testing so he and the Court could better understand his cognitive and intellectual functioning, as well as dangerousness to others (DTO).

Instruments Used and Dates Administered
This examiner follows the assessment standard (9) listed in the current American Psychological Association Ethical Principles of Psychologists and Code of Conduct.

Assessment Instrument	Date Administered
Weschler Abbreviated Scale of Intelligence-2 (WASI-2)	05/03/2022
Wide Range Achievement Test- 5th edition (WRAT 5) Green Form	05/03/2022
Repeatable Battery for the Assessment of Neuropsychology- A (RBANS-A)	05/03/2022
Violence Risk Appraisal Guide-Revised (VRAG-R)	05/03/2022
Hare Psychopathy Checklist (Hare PCL-R)	05/03/2022
The Historical, Clinical and Risk Management – 20 (HCR 20 Version 3)	05/03/2022
Rey 15 Item + Recall	05/03/2022
Test of Memory Malingering 1 and 2 (TOMM)	05/03/2022
RBANS Effort Index	05/03/2022
Dot Counting Test (DCT)	05/03/2022

Documents Reviewed

Assessment Instrument	Date Administered
Investigative Reports, Court Pleadings, and Court Records	02/26/2019
Criminal History and Background	--
Probation Department Sentencing Recommendation	--
UP TO PARENTS – Parenting Classes and Certificate of Completion	09/02/2019
Social Media History and Public Interactions	--
Various Letters of Support from Riverside City Council including Mike Gardner; Community Leaders including Rusty Bailey; Various affidavits from community supporters and friends	Multiple Dates

Pertinent Background Information
The history presented in the evaluation is limited to aspects relevant to Mr. Vanleeuwen's Neuropsychological and intellectual functioning, as well as his psychological risk for dangerousness. This information has been garnered from two (2) clinical interviews with Mr. Vanleeuwen available records. Mr. Vanleeuwen was forthcoming during the interview and a good historian. Additionally, Mr.

Neuropsychological and Risk Assessment Report

VANLEEUWEN ROBERT MICHAEL

Case Number: RIF2000128

Date: 06/06/2022

Vanleeuwen appeared to genuinely attempt to recall personal historical events asked during the clinical interview.

Pertinent Background History

Mr. Vanleeuwen reported he met all developmental milestones within the expected timeframes. He was raised in a household with his siblings, mother and father. Mr. Vanleeuwen reported he did not experience physical, psychological, or sexual trauma as a child or during adulthood. Regarding social history, Mr. Vanleeuwen single, never married, and the father of one (1) minor daughter. In terms of education, Mr. Vanleeuwen reported he graduated high school and has obtain trainings to enrich his skills. He did not report a history of learning disability or special education services in school. In terms of career, Mr. Vanleeuwen reported he has worked various jobs in the information technology industry. Regarding adaptive living history, there were no negative experiences or record of any dispositive issues. Regarding substance abuse history, Mr. Vanleeuwen reported he drinks alcohol socially, on rare occasions. Mr. Vanleeuwen reported he has never been addicted to illegal substances, prescription medication, or received inpatient or outpatient substance abuse treatment. Mr. Vanleeuwen also reported he does not have a mental health history and has never been psychiatrically hospitalized. Mr. Vanleeuwen reported he does not currently under the care of a physician for any medical condition. Mr. Vanleeuwen did not endorse past or present suicidal thoughts, plans, or intent (behaviors). Further, he did not endorse a past or present engagement in self-injurious behavior. Finally, Mr. Vanleeuwen did not endorse past or present homicidal ideation, plan, or intent (behaviors).

Does not show any signs of addiction or abuse. Nor was there any signs such as dissasociation or degradation of charaer ususally asosicated with such issues.

Behavioral Observations

Mr. Robert Vanleeuwen presented as left-handed male of average height and weight, who appeared his stated age of 31 years (DOB: 07/24/1990). Mr. Vanleeuwen's grooming and hygiene appeared within average limits. He wore clean clothing and was clean shaven. Mr. Vanleeuwen reported he was forthcoming and shared information asked by this examiner. The testing room was quiet and distraction free.

Mr. Vanleeuwen did not evidence involuntary movements, facial asymmetry, psychomotor agitation, or slowness. He was able to ambulate independently without any assistive devices such as a walker, crutches or cane. Mr. Vanleeuwen's conversational speech was within average limits and he engaged in appropriate conversation with this examiner. Mr. Vanleeuwen stayed on tasks during interview and testing. Mr. Vanleeuwen reported he was "feeling fine" and his mood appeared euthymic. He did not demonstrate difficulty following multi-step commands that were provided. Mr. Vanleeuwen did not report he was experiencing physical pain. Overall, Mr. Vanleeuwen reported he was "feeling fine" and appeared to put forth his best effort in testing. Mr. Vanleeuwen's strengths include perseverance during the testing process and empathy for what others may experience.

Test Results

In an effort to determine the validity of Mr. Vanleeuwen's test findings four (4) performance validity tests (PVTs) were administered, three (3) stand-alone and one (1) embedded. Mr. Vanleeuwen's behavioral presentation during the evaluation was also considered within the context of determining performance validity. The findings are presented below.

Objective Data

Mr. Vanleeuwen provided valid performance on all four (4) PVTs administered. He had valid

Combined Raw Score = 30/30). On a separate objective stand-alone PVT, requiring Mr. Vanleeuwen to count grouped and ungrouped dots he also had a valid performance (DCT Raw = 9). Mr. Vanleeuwen also passed the TOMM (TOMM: Trial 1= 50, Trial 2= 50), the most psychometrically robust PVT. Finally, Mr. Vanleeuwen also demonstrated valid performance on an embedded measure of effort derived from the RBANS (RBANS Effort Index: Raw= 0.

Behavioral Data
Mr. Vanleeuwen followed instructions and demonstrated good effort throughout testing. He did not present with any behavioral evidence indicative of feigned or gross exaggeration of cognitive deficits or psychiatric symptoms during the testing sessions. In sum, Mr. Vanleeuwen provided substantial valid performances on PVT measures during the current evaluation. Given Mr. Vanleeuwen's performance on PVT measures, it is this examiner's opinion that the current testing is reflective of Mr. Vanleeuwen's true abilities.

Intellectual Functioning
Mr. Vanleeuwen's performance was intact regarding overall intellectual functioning. Mr. Vanleeuwen's IQ score was estimated within the high average range. His strengths in the area of verbal comprehension was reflective of his ability to understand, use and think with spoken language. It also demonstrates the breadth and depth of knowledge acquired from Mr. Vanleeuwen's environment. Mr. Vanleeuwen's strength in perceptual reasoning reflected his ability to accurately interpret, organize and think with visual information. Mr. Vanleeuwen's nonverbal reasoning skills were intact. Additionally, he is able to think in a fluid manner, which also requires intact visual perceptual abilities.

Neuropsychological Status
Mr. Vanleeuwen was also administered the Repeatable Battery for the Assessment of Neuropsychological Status (RBANS-Updated). Overall, Mr. Vanleeuwen's scores across measures on the RBANS were intact. Specifically, Mr. Vanleeuwen scored within the high average range on measures assessing language, attention, and memory. His performance was within the average range on a measure of visuospatial/constructional.

Mr. Vanleeuwen's high average performance on measures of language indicates he is able to respond verbally to naming and retrieving learned material. Scores from Picture Naming and Semantic Fluency contribute to this index.

Likewise, Mr. Vanleeuwen's high average score on attention indicates he has the capacity to remember and utilize both visually and orally presented information in short-term and long-term memory storage. Scores from Digit Span and Coding contribute to this index.

Mr. Vanleeuwen scored within the high average on measures of immediate and delayed memory. His high average performance in immediate memory indicate he has the ability to remember information immediately after it is presented. Scores from List Learning and Story Memory contribute to this index.

Mr. Vanleeuwen's high average performance in delayed memory indicates his anterograde memory capacity is intact and functioning properly. He was able to correctly identify information that was previously told to him. Scores from List Recall, List Recognition, Story Memory, and Figure Recall contribute to the score in this index.

Mr. Vanleeuwen's average performance on a measure of visuospatial/constructional indicates Mr. Vanleeuwen demonstrated the ability to perceive spatial relations and to construct a spatially accurate copy of a drawing. Scores from Figure Copy and Line Orientation contribute this score.

The conclusions reached in this report are based upon the information available to the examiner at the time of the evaluation. The interpretation and diagnostic conclusions are subject to change should additional details concerning Mr. Vanleeuwen's history be revealed. If additional information comes to light that contradicts the current information, I reserve the right to alter my opinion accordingly.

Kimberly Smith,
Forensic Neuropsychologist

06/06/2022
Date Signed

Attachment

Attachment E

EXHIBIT

Affidavit of Processor
12/09 Process

AFFIDAVIT OF SERVICE

On *December 9th, 2019* - I personally served **Elisseth Ramirez** with a Notice of Hearing, Request for Orders & Other documents / Case Matters - Though a specific situation arose and is described as follows:

I attended the hearing date of pending matters on *December 9th, 2019*. Miss Ramirez (*Respondent to Action*) was there accompanied by members of the Riverside County District Attorney's office. Her "Chaperone" was a known investigator from that office, a one Hector Santana. I witnessed them leave prior to roll call and followed them out of the court-house.

Approaching Miss Ramirez, I informed the documents (inside a *sealed manila folder)* were intended for her. Mr. Santana immediately placed himself between us in an aggressive manner and said "give it to me" - I responded "No, I'm supposed to give it to her" - at point he said "No, give it to me and I'll give it to her" <> and he reached and took the folder from my hands. I looked toward Miss Ramirez, who was attentive and aware of the situation and how it progressed.

Since Mr. Santana is an investigator with the District Attorney's office per background obtained, he is held to a professional and moral obligation. Miss Ramirez knew she was being served. Miss Ramirez knew the folder was intended for her and permitted the agent to take the folder from me without my or her express consent.

All documents inside said folder are to be served by mail and proof of that service filed in addition by secondary party.

According to law, Respondent has officially been served.

THIS STATEMENT DECLARED UNDER PENALTY - ATTATCHED TO POS (POS-010)

IN THE CALIFORNIA COURT OF APPEAL

FOURTH APPELLATE DISTRICT

In RE: the matter of:

- Robert "Tafoya", No. E084312

On Habeas Corpus.

< 11/10/24 | File 3 of 4 >

CiteChecked()

REQUEST FOR CONSIDERATION

ON SANCTION / ADMONISHMENT

11/10/2024

Filed By:

Robert Michael Vanleeuwen

P.O. Box 1050 (A2/TAFOYA/BS8619)

Soledad, CA - 93960

CONTENTS

Request for Consideration on Sanction/Admonishment. p 4

Introduction ..... p 4
Grounds ..... p 4
Offending Conduct ..... p 5
Relief Requested ..... p 16

Verification ..... p 17
Memorandum in Support ..... p 18

RESPONDENT COUNSEL VIOLATED AN ETHICAL DUTY OWED TO THIS COURT

A. Summary of Conduct ..... p 18
B. Special Duties of a Prosecutor ..... p 19
C. Liability for & Responsibility of Reporting Misconduct ..... p 20
D. Concluding Point ..... p 20

AUTHORITIES

Cases/Statutes/Provisions/Rules	PGS
In RE O'Brien,224 Cal App 2d 563 (1964)	6
Wilson v. Los Angeles,127 Cal App 2d 285 (1954)	6
Sneed v. Smith,670 F2d 1348 (1982)	11
In RE Milch,47 Cal App 3d 666 (1975)	16
Pickering v. St. Bar,24 Cal 2d 141 (1944)	18
Berger v. US,295 US 78 (1935)	19
Daily v. Super. Ct.,4 Cal App 2d 127 (1935)	20
Franklin v. St. Bar,41 Cal 3d 700 (1986)	20
In RE Grossman,24 Cal App 3d 624 (1972)	21
Legg v. Brody,187 Cal App 2d 79 (1960)	21
101 Ops. Atty. Gen. 76 (2018)	5,18
Cal Fam § 7601	7
Cal Pen § 127	8
Cal Civ Proc § 128.5	4
Cal Civ Proc § 128.7	4
Cal Civ § 3540	7
Cal Bus. & Prof. § 6106	18
Cal Bus. & Prof. § 6068	16,20
Cal R. Ct.	
Rule 8.276	4
Rule 8.385	4,5,19
Cal Rules of Prof. Conduct (RPC)	
Rule 8.3	5
Rule 3.8	7
Treatises:	
3CA Pretrial Civ. Procedure: The Wagstaff Grp § 60-II*	6
Art - A. Walsh,ALL IN FAM.,37 Quinn. Prob. L.J. 273 (2024)	7

REQUEST FOR CONSIDERATION OF SANCTION / ADMONISHMENT

< To the Honorable Justices of This Court >

Introduction

Petitioner, Robert Michael Vanleeuwen, here requests this court consider the imposition of sanctions, including damages to party effected, and or admonishment directed at respondents counsel - Ksenia Gracheva (SB#:333659) - for actions of moral turpitude in this and related actions (See,Gen,Cal R. Ct., Rule 8.276;cf,Cal Civ Proc §§ 128.5/128.7).

Grounds

This motion / request is made on grounds that respondents filing of the Informal Response (1) failed to comply with rules governing the form and sufficeincy of service (Cal R. Ct, Rule 8.385(b)(2));(2) that the response itself contained no less than 32 misrepresentations of law and fact, errors, omissions and (3) was specious, even negligent and unresponsive. It is, as such, contended to be a bad-faith filing.

This motion / request is based on the grounds provided and on the attached memorandum, record of this and all relevant / cited actions, exhibits, and any such other material the court may deem relevant through hearing ()

Offending Conduct

1. Uses unrelated Habeas Proceeding in Superior Court (IR 8:8-16, & fn.5), scant notice (IR 8:8-9 ["...claims unrelated..."]), in a manner clearly intended to infer prior judicial review affirming respondents contention that no prima facie case could exist in context, and in the instant action (IR 6:16-9:2) - under header (IR 6:16 ["Procedural History"]) and unequivocally linked therein (IR 8:10-18) ["On the same day [as denial in lower], Tafoya filed ... in this court..."]).

2. Continued and demeaning characterization of petitioners legal name 'Vanleeuwen' as "fictitious" (eg,) and without lateral correction or note (eg,IR 21:11-13;22:22:22-24*), despite the office of the attorney general, under which counsel is employed, holding the name to be "legal" (See,101 Ops Atty Gen 76(2018)).

3. Failure to comply with the rules of court governing form and sufficeincy of pleading and service - failing to serve petitioner with items of record referenced (Cal R. Ct, Rule 8.385).

4. Notwithstanding pt-2, fails at any point to note that both the name 'Vanleeuwen' and 'Tafoya' were given at filing of the family case(s) referenced (Exh.__), which demonstrates good character of petitioner and immediately places veracity of adverse testimony into question - Obfuscation for appearance of impropriety is sanctionable conduct qualifying suspension or disbarment and must be reported (Cal RPC, Rule 8.3).

5. Misrepresents that petitioner overtly admitted to a prior-strike offense at bifurcation - Petitioner merely asserting in hearing of a record, of an inference to a particular plea under duress and to which diligent efforts to reverse were being so conducted (IR 50:20-21).

6. Agrees the record is incomplete, thus depriving the party of a full and fair review (IR 49:23-25), has done nothing in the review of said claim.

7. Misrepresents the qualification of documents signed under a verification (eg,IR 46:3) implying that petitioner is held to a more stringent standard than the certification of good faith actually imparted (3CA Pretrial Civil Procedure: The Wagstaffe Group § 60-II[A][2][a]["best under the circumstances pleading rule..to the best of your knowledge, information, and belief.. reasonable diligence.."]).

8. Misrepresents the qualification of documents signed under a verification (eg,IR 46:3) implying that (1) pleadings are now official judicial records, and (2) party filing of optional or mandatory judicial counsel forms somehow certifies / records a document under law..even though a "verified pleading is itself an affidavit" (O'Brien,224 Cal App 2d 563,569(1964)) and the "entry of judgement is the initial point from which rights arise" (Wilson,127 Cal App 2d 285,289(1954)).

---

n1 - All exhibit references to Exhibit file (Reply to IR)

9. Overtly lies about the presence of a restraining order that prohibited contact between petitioner and his child Marjorie (IR 49:16-17). No restraint ever existed, until the initial kangaroo arraignment in the underlying action, specifically to separate petitioner and obstruct litigation in family court. Petitioners law abiding nature is what hurt him - (Cal Civ Cd. § 3540 ["The incident follows the principal, and not the [other way around]"]).

10. Misrepresents the definition of parent as one of 'biologic' realities (eg,IR,27:8/48:26/49:1-5), selectively prosecuting a action in contradiction of her duty to secure justice for the factually innocent (gen,Cal R. Prof. Cond., Rule 3.8).

11. Misrepresents the definition of parentage as a 'biologic' reality (eg,IR 27:8/48:26/49:1-5), misrepresenting longstanding law under Uniform Parentage where "the [law] provides for equal access to parentage regardless of marital status, sexual orientation, or biological relation" (A. Walsh,ALL IN THE FAM., 37 Quinn. Prob. L.J. 273,274(2024);Cal Fam § 7601,etseq).

12. Overtly lies and claims, or furthers an impeached witness' testimony that petitioner "changed his story" (IR 27:4), when in fact, petitioner has NEVER changed his story, EVER, as is shown easily through written pleadings in this and family cases as well as prior writ petitions in this court. Petitioner re-affirms and alleges biological & declared fatherhood, and where biology may be disproved, declaration/legal basis still exist.

13. Knowingly and willfully presents perjured testimony as fact in support of argument: Testimony of 'Investigator Santana' (eg, IR 23:9-27 -- 24:1-2), wholly impeached at trial, without citing said impeachment or otherwise clarifying existence thereof by any cite or reference (eg,Exh. 3 [report of Inv. Garcia J. on false reports/testimony filed by santana/vaughan in conspiracy]).

14. Knowingly and willfully presents perjured testimony as fact in support of argument: Testimony of 'School Crossing Guard' (eg, IR 18:4-20), impeached by cross and reading of report, without a single citation to impeachment or reference to objection, hearing held on the matter, or prosecutors assistance in presentation of said false testimony (wilful redaction of report before provision & calling) and subornation of perjury (Cal Pen § 127).

15. knowingly and willfully presents perjured testimony as fact in support of argument: Testimony of 'Elisseth Ramirez' (eg,IR), in whole being impossible, contradictory and unreal (n1), that a claim to marriage and a 4th child (eg,IR 17:1-2) were solicited and repeated at will, the state knowing that no record of such child or union existing (Exh. 2).

16. Misrepresents testimony or record: "get updated restraining orders" (eg,IR 16:6-7) in context, ER never personally seeking an additional or updated order - the provision of such being nothing more than procedural actions by the courts.

---

n1 - See Traverse of Informal Response, MEMORANDUM @ pp37.

17. knowingly and willfully presents perjured testimony as fact in support of argument: Testimony of 'Jazmine Mendiola', the process-server who now claims the signature is not hers - to the extent of service, was wholly impeached. Respondent fails to cite impeachment testimony, instead re-structures the testimony and presents it in a manner that she believes justifies conviction (eg,IR 28:24-27 -- 32:15). Respondent spends time to structure the elements of the offense and assign the requisite 'knowledge' and 'intent' (eg,IR 30:11-12 ["Jazmine provided the documents to Tafoya, she met with him a second time to serve E.R."];30:27-28 ["She called Tafoya"..."June 11th, 2019"];32:1-2 ["to tell them that she served E.R. even though she did not"]).

-- At issue, petitioner was in custody during the dates in question. Mendiola Perjured herself on the stand, could not gain access to, call, drop off or pick up papers. Respondent fails to cite this fact or the exhibits thereof (Exh.__[booking records]). Further, respondent fails to mention mendiolas prior testimony (See Exh. 9 [Inv. Interview 2018]).

18. Refuses to respond to petitioners claim raised in the initial petition regarding the actual impossibility of the elements of knowledge, intent, or even posession where only the testimony of 'Jazmine Mendiola' could reach it, and that testimony having been impeached (HCP 5:1-10). Respondent instead joins the conspired act by restructuring testimony (See pt. # 16), assigning every possible element (id) and arguing that the 'Act of Filing' could be inferred by circumstantial evidence alone (IR 47:19-48:11).

19. Wilful ommission of physical alibi testimony: Testimony of 'Terry L. Beith' (Exh.10[Inv. Interview]) in its entirety, and of evidentiary exhibits in support thereof (See Exh.11@p2 [employer W2 / Employer Statement of Presence in Colorado]). Respondent in turn taking care to reference and cite only to places that would not relate to or necessarily result in a reviewer stumbling onto such testimony or record. Utilizing said ommission to strengthen plausibility of testimony adverse to petitioner.

20. Wilful ommission of dates to ensure that, notwithstanding pt. #19 above, any party who may stumble onto the presence of the physical alibi to claims and inferences of acts, would not place or assign such alibi in review (eg,IR 16:15-17 [ER finds a phone "fixed to... her car" - a Feb. 2017 claim when ptnr. was living and working in the state of Colorado w/o leave]). Respondent fails to clarify these accusations and presents them, knowingly, in a manner to mislead the court.

21. Wilful ommission of physical alibi testimony: Testimony of 'Riverside Sherriffs Office', testifying that petitioner was not available to Mendiola, having been in custody at the times /date specified in her testimony (See pt. #17-18).

22. Wilful misrepresentation by perjured testimony, presented in factual argument over lawsuits to infer petitioner is using his filings to target E.R. (eg,IR 23:17 ["multiple other lawsuits involving Tafoya and E.R."]), knowing said to be false (pt.#23), by reference, in hopes of benefitting from inference (id).

23. Notwithstanding pt. #22, knowingly ommitted the fact that the counsel retains posession of the listing of actions over which 'Investigator Santana' was testifying (See pt. #22), thus having a list of numerous defendants, and still, regardless, presented the above mentioned testimony in support of argument as "fact".

24. Fails to give notice that ' Investigator Santana' was a party and defendant in a civil harassment restraint action filed on the behalf of MR, to keep 'Investigator Santana' away from MR after MR reported 'Santana' approaching her with awkward questions. The petition filed by father vanleeuwen.

25. Notwithstanding pt. #24, fails to give notice of prosecutors involvement in the civil harassment case mentioned, personally appearing on the record (TANDEM 1 @ pp 2).

26. Petitioner alleges that the failure listed, in pt. #24/25 is respectively intended to avoid discussion of the conflicts of interest in the present prosecution.

27. Knowingly and willfully claims petitioner "forged his friends signature and filed false proofs of service" knowing said claim to be false - prosecution having had an opportunity to present such a case and notably failing to present sufficient evidence. Seems to agree (IR 47:25 ["no such evidence was required"];but see, Smith,670 F2d 1348,1352(1982)[precluding conviction on inference when nobody saw defendant sign the document or proof otherwise]).

28. knowing and wilful ommission of detail to infer conduct and character (IR 13:17-19 ["a framed photograph of ER was found in his car"]), knowing such was materially false - in that, the framed photograph in question was a photo of petitioner AND ER, such photo being in evidence as an exhibit.

29. Notwithstanding pt. #28, the photograph mentioned was listed as an exhibit, counsel failing to obviously review the record and simply trusting oral transcript, no augmentation or anything, is negligent and inappropriate.

30. Knowingly and willfully misrepresents testimony as adverse to petitioner as a means to mislead and pursuade the court in the context of BIAS speech (IR 40:3-5 ["Testified to his disfavor"]). Knowing full well that such was the basis for "reasonable doubt" when discussing expert testimony that verified multiple people having touched the document in question (written on it) - As it was never petitioners intent or action to hide or mislead the court as to the preparation of the document before sending to the process server by mail.

31. knowingly and willfully misrepresents the purpose of testimony (IR 48:23 ["reciting law to establish that he is MR's biological father"])... knowing said statement to be false and hoping the court was un-educated in the definition of a real father - the statement being a purposeful misquote of petition (HCP 5:37) so showing intent.

32. Openly condones the spoilation of child-testimony by both the state and mother (IR 49:5-19).

33. Fails to consider - presence of new witnesses and evidence as evinced by the assigned legal aid in petition. Instead simply stating, falsely, and contrary to duty, that no new witnesses or evidence was presented for consideration (IR 53:11).

34. knowingly and willfully in bad faith, fails to respond to the claim involving "other acts" evidence (Cal Ev. § 1101), instead citing said provision (id) and statute on entry of impeachment testimony (Cal Pen § 788) interchangeably. If respondent is not aware that these concepts are two very different matters, or that such a response is wholly unresponsive... a notice to the state bar is immediately required.

35. Misrepresents circumstances by presentation of perjured and fraudulent testimony, knowing the civil action referenced had a multitued of services, properly executed, without complaint or withdrawal (eg,Exh.__).

36. Seeks charges on which counsel admits no evidence exists to directly fulfill elements of the crime charged (IR 47:25), but uses impeached testimony to infer circumstantial evidence existed while wilfully excluding petitioners physical presence.

37. Fails to reference testimony by officer as having changed, petitioner more interested in MR, vs into BP (RIF1705055)(IR 26:5)

38. Manipulates oral testimony or otherwise quotes a manipulated transcript: Testimony of 'Jazmine Mendiola' (IR 48:3-5 ["Tafoya instructed her to sign pieces of paper"]). Mendiola only testified to "pre-signing" the forms, but when shown the form "that's not my signature". Petitioner having not been provided the record can only assume it is counsel who manipulates the transcript. Upon receipt of record such will be compared to the courts assistive transcript prints received to aid in cross.

39. Manipulates oral testimony or otherwise quotes a manipulated transcript: Testimony of 'Brittany Pina' (IR 19:1-2 ["16"])... BP clearly testifying that she was "17 and a half" - a known act that her father figure vanleeuwen did not wish to embarass her over. However, "correcting" a record to reflect the proper ages prevents proper determination of inconsistency. Where else did you change things? Petitioner having not been provided the record can only assume it is counsel who manipulates the transcript.

40. Manipulates oral testimony or otherwise quotes a manipulated transcript: Testimony of 'Marjorie Ramirez' (IR 20:19-24 [Tafoya asked M.R. why she was afraid of him..."]) - I, petitioner, NEVER asked any such question or ever use the word "fear" - M.R. was not afraid - Transcribe Santana recording with M.R. "He loved me" These transcripts are edited if they depict such as referenced. Petitioner not having a copy of the record can only assume it is counsel that manipulates the testimony.

41. Continues to mention the UCCJEA form filed in family court, knowing that nothing on said form was false. In fact, failing to present to the court knowledge that every single detail on the form was, in fact, literally true and confirmed to be so.

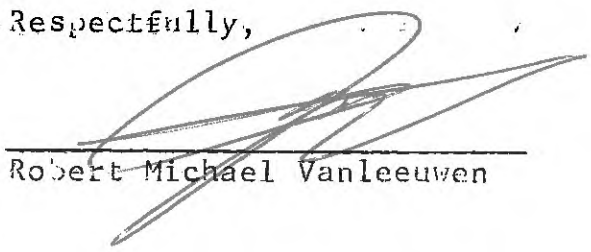
42. Fails to convey this courts remand in family action in this districts case E075791, making it appear in pleading that the court properly dfismissed the action and that petitioner decided to just file again (eg,IR 22:7), and fraudulently ommitted the "and declared father" from the phrase used to try to decieve the court that it was a perjured statement, rather than a compound (eg, IR 23:14).

Relief to be Considered

Petitioner requests this court take into consideration the importance of these proceedings in upholding justice, and of the child, who by nature of these proceedings has been so deprived of additional provision, and the sanctity of and the protection of her constructive parental relationships, denied, thus far, a right to inheritence, association, and suffered a series of psychological abuses at both the hands of the mother and aided by state actors seeking only to aid a favored party in prevailing in civil litigation.

WHEREFORE - Petitioner requests, that in the event damages are applicable, that such be issued in the highest amount possible and ordered payable to: Marjorie Linette Ramirez, Vanleeuwen, with orders to ensure provision to her alone, if necessary, on her 18th birthday. It is generally understood this court may award any reasonable amount (eg,Milch,47 Cal App 3d 666,670-72 (1975)[to party for lost wages];cf,Cal Bus & Prof. § 6068). An award to me will be held for her alone and provisioned to her directly through unrestrained family or her directly.

Respectfully,



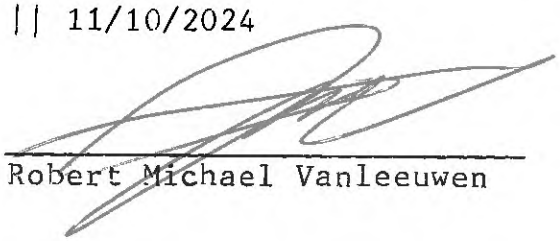
Robert Michael Vanleeuwen

VERIFICATION

I, Robert Michael Vanleeuwen, petitioner in the underlying action, have read the foregoing request for consideration on the sanction / admonishment of respondent counsel, memorandum in the support thereof, and know the contents to be true, by or through citation, exhibit, notice, knowledge and experience.

PURSUANT 28 USC § 1746 - I declare the above as true and correct under penalty of perjury

|| 11/10/2024



Robert Michael Vanleeuwen

MEMORANDUM IN SUPPORT

RESPONDENT COUNSEL VIOLATED AN ETHICAL DUTY OWED TO THIS COURT

A. Summary of Conduct

From the outset respondent sought to mislead this court, and deny petitioner his right to a full and fair review. Even in a matter as simple as the summary of procedural history, the respondent insults this courts intelligence when attempting to infer support for dismissal through the exposition of a wholly unrelated writ denial recently disposed (IR 8:8-16) - a tactic of deceitful intent rebuked at the very core of this states adopted form (Cal Style Man., § 1:11 (4th Ed. 2000)[disfavoring attys attempts to infer review denials "to suggest"];Cal Bus. & Prof. § 6106;cf,Pickering,24 Cal 2d 141,144(1944)[discussing a duty "not [to] mislead..."]).

Alone, one might take any number of excuses and find even the smallest favor... but the sheer amount of issues listed in request on sanction (42), and the nature of those issues being so blatant, overt, and intended to deceive - no favor can be expressed. Petitioners very name finds itself under continued selective attack, being called "fictitious" and nothing more than a "alias" to infer criminal prejudice when respondents own office clearly holds petitioners name: 'Vanleeuwen', as the petitioners legal name (101 Ops Atty Gen 76,76(2018)).

Most concerning of all is the overt ommission of specific details that would otherwise, if reported, honestly require the concession of error justifying relief (See eg, pt. #7,8); using the presentation of not only impeached ... but perjured testimony to further this criminal narrative of a non-criminal action (See eg, pt. # 13,14,15,16,17), wilful misrepresentation of long and settled law (eg, pt. # 10,11,31), alteration and ommission of minor details to infer criminality (eg, pt. # 2,4,5,9,16,19,20, 28,31), and even, the manipulation of oral record (eg, pt. # 38, 39,40). There being 42 errors, misrepresentations listed - it was not all of them.

"If everyone just told the truth... I'd be home"
- MLK Letter 3

B. Special Duties of a Prosecutor

Prosecutors are supposed to be servants of the law (Berger, 295 US 78,88(1935)) and a "representative, not of [a] party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that [they] shall win a case, but that justice shall be done" (id @ pp.88) - an advocate for the community, not the alleged, and here fraudulent victim... (Attachment 1).

C. Liability for & Responsibility of Reporting Misconduct

Appellate justices should not remain uninvolved when being confronted with potential misconduct or obvious negligence. Just as attorneys cannot make misrepresentations to opposing counsel, they definately cannot make them to judicial officers (Cal Bus. & Prof. § 6068(d))... and the obligation to avoid deceitful works, acts and statements, is in the negative as well as in the affirmative concept - In other words, it includes "suppression of that which is ones duty to declare as well as in the declaration of that which is false" (Daily,4 Cal App 2d 127,131(1935)).

To be noted, there is no distinction among concealment, half truths, and false statements of fact (Franklin,41 Cal 3d 700,709 (1986)), and attorneys, especially prosecutors, are also liable for those acts which may just be the result of recklessness.(Cal RPC, Rule 3.8).

D. Concluding Point

Let's be frank... I don't believe everyone is out to get me, and I don't assume everyone is out there intending to harm those in this system. But come on... I shouldn't have been able to find or pull more than 5 issues from that pleading. 42? That wasn't even trying. what is more concerning is the fact that counsels statement was "copied" from the appeal...

Take this one case, take those issues listed - take the time, find out where the dominoe fell, which direction it fell, and have the courage to right the wrongs. Otherwise, all thats being done is making the courts more burdened - it's inexcuseable (Legg, 187 Cal App 2d 79, 81 (1960)[desc. misstatements as inex. , necessitates cts own research]). This court has a right to expect and demand diligence and professionalism (Grossman, 24 Cal App 3d 624, 629-31 (1972)[refs ABA Rules]).

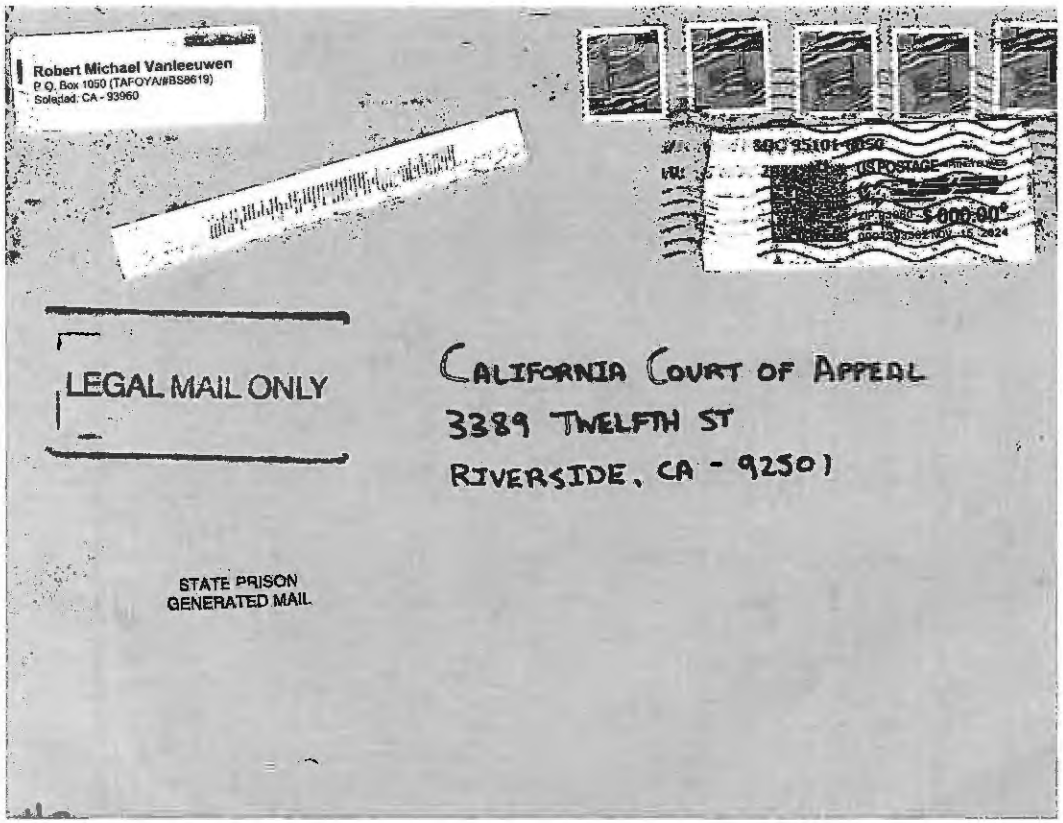
-- a term for this laxity in advocacy - NEGLIGENCE. How many innocent people are being hurt by such tactical injustice?

Sanctions should be issued. I ask them be made to my daughter if compensatory sanction is allotted. Further, the court should issue report to the state bar.

Respectfully,

Robert Michael Vanleeuwen

*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